

# Department of Commerce (DOC)

## Bureau of Industry and Security (BIS)

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# DOC

## Nuclear Export Controls

- Export Control Objectives and Authority
- Export and Deemed Export
- Items Subject to the EAR
- Transaction vs. List-Based Controls
- Technology and Software Controls
- License Exceptions vs Licenses
- Requests for Help

# Export Control Objectives

- Preserve national security
- Counter proliferation of Weapons of Mass Destruction (WMD)
- Maintain industrial base and economic security
- Promote foreign policy interests

# Statutory/Regulatory Authority

- Export Administration Act (EAA)
- International Emergency Economic Powers Act (IEEPA)
- Nuclear Non-Proliferation Act
- Export Administration Regulations (EAR  
Published in the 15 CFR Parts 730 – 774)

# Export Control Regimes

- Wassenaar Arrangement (National Security)
- Missile Technology Control Regime (MT)
- Nuclear Suppliers Group (Nuclear Nonproliferation)
  - Trigger List
  - Dual-Use Annex
- Australia Group (Chemical & Biological)
- Chemical Weapons Convention (CW)

# Export and Deemed Export

## (Part 734.2)

- An actual shipment or transmission of “items” subject to the EAR out of the United States
- Any release of technology or software subject to the EAR in a foreign country
- Any release of technology or source code software subject to the EAR to a foreign national in the United States

# Items Subject to the EAR

## (Part 734.3)

- Export of any items in US – commodities, software, or technology (development, production, or use). EXCEPT :
- Items under other agencies' exclusive jurisdiction
- Printed books, pamphlets, motion picture films & soundtracks, etc.
- Publicly available software and technology (except encryption software)

# Nuclear Export Control Jurisdiction (Part 734.3)

- U.S. Nuclear Regulatory Commission (NRC) for commodities related to nuclear reactor vessels (10 CFR Part 110)
- Department of Energy for technology related the production of special nuclear materials (10 CFR Part 810)
- Department of Commerce for the balance of plant and all dual-use items



# Publicly Available Software

- Not subject to the EAR, except encryption software (Part 742.15)
- General distribution
  - Accessible to the public
  - No restrictions to anybody
  - No time restraints, e.g., time bombs
- Free or just cost of reproduction/distribution

# Publicly Available Information

- Already or will be published (accessible to the public, e.g., library, patent records, & conference) (Part 734.7)
- Arise during or result from Fundamental Research (Part 734.8)
- Educational Information (Part 734.9)
  - Instruction in catalog courses of institutions
- In certain Patent Applications (Part 734.10)

# Transaction-Based Control

- Denied Persons List  
(Supplements 2 to Part 764)
- Entity List (requiring license)  
(Supplement 4 to Part 744)
- Countries under embargoes (Part 746)
- Prevent simple items or activities to be used for  
proliferating Weapons of Mass Destruction  
(Part 744)

# Transaction-Based Control Nuclear End-use Controls

(Part 744.2, 774.5 & 744.6)

- Nuclear explosive activities
- Unsafeguarded nuclear activities related to nuclear reactors and nuclear fuel
- Reprocessing, Heavy water, Isotope separations, and Plutonium fuel
- Certain technology for maritime nuclear propulsion
- U.S. persons' activities related to nuclear explosive devices

# List-Based Control

## (Part 738)

- Commerce Control List (CCL)
- Export Control Classification Numbers (ECCN)
- Reasons for Control
- The Commerce Country Chart

# Example of an Export Control Classification Number (ECCN)

**2B001 Machine tools and any combination thereof, for removing metals, ceramics or “composites”, which can be equipped with electronic devices for “numerical control”.**

## License Requirements

Reason for Control: NS, NP, AT

Control(s)

NS applies to entire entry

NP applies to a, b, c and d

Country Chart

NS Column 2

NP Column 1

## License Exceptions:

LVS: N/A

GBS: N/A

## List of Items Controlled

# Technology and Software Controls

- Explicitly described
- “Development” – design, prototyping
- “Production” – assembly, testing
- “Use” – installation, repair

# Technology & Software Transfer Controls

- Includes transfers regardless of the media
  - (i.e., disk, blueprints, hardcopy, etc.)
- Includes electronic transfers
  - (i.e., via the INTERNET, E-Mail, Fax)
- Includes direct transfers
  - (i.e., consultations, phone conversations, instruction & seminars)



# Is a License Required under the List-Based Control?

- Commerce Control List (CCL)
- Export Control Classification Numbers (ECCN)
- Reasons for Control
- The Commerce Country Chart

# License Exceptions (Part 740)

- 19 Exceptions to license requirements
- Eligibility depends on:
  - ECCN
  - Country of Destination
  - End-use & End-user
  - Transaction

# The License Application (Part 748)

- BXA Form 748P
- Statement by Ultimate Consignee
- Supporting documents
- Letter of Explanation for technology export
- Letter of Assurance for technology export controlled under National Security reason

# Special Comprehensive License (SCL in Part 752)

- For multiple exports and/or reexports
- Requires Internal Control Program
- Comprehensive review by BIS and other export control agencies
- International Cooperative License – a special kind of SCL for U.S. government agencies only

# Scope of the Special Comprehensive License (SCL) (Part 752.3 & 752.4)

- All items except:
  - MT items
  - EI items (Encryption)
  - Most CB items
  - Some other items
- All Destinations except:
  - Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria

# Request for Help

- Mark the Classification Request box on (electronic) Form BXA-748P for item classification request (ECCN) (Part 748.3)
- Request “Advisory Opinion” in writing through regular mail
- Call for assistance

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